

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

ALDO VERA, JR., as Personal Representative of the
Estate of Aldo Vera, Sr.,

Plaintiff,

v.

THE REPUBLIC OF CUBA,

Defendant.

ALDO VERA, JR., as Personal Representative of the
Estate of Aldo Vera, Sr.; and

JEANNETTE FULLER HAUSLER, and WILLIAM
FULLER as court-appointed co-representatives of the
ESTATE OF ROBERT OTIS FULLER, deceased, on
behalf of all beneficiaries of the Estate and the ESTATE
OF ROBERT OTIS FULLER; and

ALFREDO VILLOLDO, individually, and GUSTAVO
E. VILLOLDO, individually and as Administrator,
Executor, and Personal Representative of the ESTATE
OF GUSTAVO VILLOLDO ARGILAGOS,

Petitioners,

v.

BANCO BILBAO VIZCAYA ARGENTARIA (S.A.),
et al.,

Respondents/Garnishees.

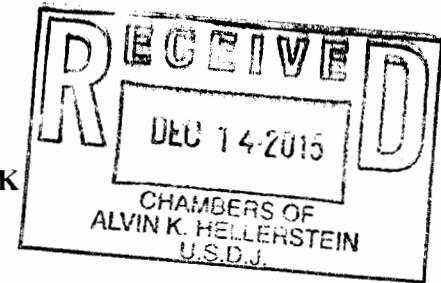
JPMORGAN CHASE BANK, N.A.,

Respondent/Garnishee and Third-Party
Petitioner,

v.

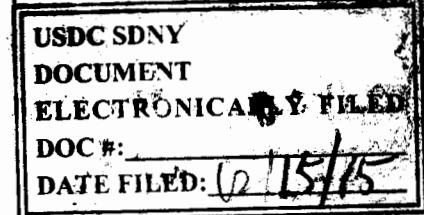
MARTÍNEZ AMORES, et al.,

Adverse Claimants-Respondents.



Case No. 12-CV-01596
(AKH)

STIPULATION AND
~~PROPOSED~~ ORDER
CONCERNING SERVICE BY
PUBLICATION AND TURNOVER
OF ACCOUNT NO. 25 AND
ACCOUNT NO. 26 HELD BY
JPMORGAN CHASE BANK, N.A.



(Dkt. No. 563)

WHEREAS, JPMorgan Chase Bank, N.A. ("JPM Chase") maintains two trust or custody accounts blocked pursuant to the Cuban Asset Control

Regulations, 31 C.F.R. part 515 (the "CACRs"), which were opened with JPM Chase's predecessor-in-interest Chemical New York Trust Company in the name of Banco Gelats, a private Cuban bank, for the benefit of certain individuals (*see* ECF No. 563 ¶¶ 21-30) (the "Blocked Accounts"), namely:

1. Account # 25, c/o Banco Gelats, which holds funds and securities valued at approximately \$226,621.53 as of June 30, 2012;
2. Account # 26, c/o Banco Gelats, which holds funds and securities valued at approximately \$96,114.33 as of June 30, 2012;

WHEREAS, Banco Gelats appears to have been nationalized by the Republic of Cuba in or around 1960 and Banco Nacional de Cuba may be its possible successor-in-interest;

WHEREAS, on February 12, 2014, Petitioners filed an Amended Omnibus Petition (ECF No. 423) seeking a turnover order with respect to, among other things, the aforementioned Blocked Accounts held by JPM Chase;

WHEREAS, on May 6, 2014, JPM Chase filed its Third-Party Petition Alleging Claims in the Nature of Interpleader (ECF No. 563) (the "Interpleader Petition") concerning, among others, the Blocked Accounts;

WHEREAS, in the Interpleader Petition, JPM Chase took the position that "Petitioners should be required to satisfy the Court that there is a sound basis for ordering turnover of the property in these accounts held in sub-accounts or trust accounts for the benefit of various named individuals as property of the Republic of Cuba or any of its agencies or instrumentalities, before ordering and approving a form of notice to

summon the individuals identified as beneficial owners to the Court" (ECF No. 563 ¶ 46);

WHEREAS, the Interpleader Petition was duly served on Petitioners and on Banco Nacional de Cuba, as the possible successor-in-interest to Banco Gelats (ECF No. 831), and the time for Banco Nacional de Cuba to respond to the Interpleader Petition has expired;

WHEREAS, on October 30, 2015, Petitioners filed a motion for summary judgment in connection with the Interpleader Petition in which they sought an order requiring JPM Chase to turn over to them the funds and securities held in the Blocked Accounts (ECF Nos. 838) (the "Summary Judgment Motion"), presenting evidence that Banco Nacional de Cuba is an agency or instrumentality of the Republic of Cuba (ECF No. 850), and arguing that the Blocked Accounts belonged to Banco Nacional de Cuba as successor-in-interest to Banco Gelats; and

WHEREAS, as a neutral stakeholder, and based on Petitioners' agreement that it is appropriate to serve notice on the individuals identified as beneficial owners (the "Individuals") by publication in newspapers of general circulation, JPM Chase is prepared to agree as follows;

NOW, THEREFORE, IT IS STIPULATED AND AGREED that:

1. Petitioners and JPM Chase shall undertake to publish a notice, in the form attached hereto as Exhibit 1, in the *Miami Herald* and *El Nuevo Herald* during a period of at least three (3) separate or consecutive days, beginning no later than ten (10) days after this stipulation is so-ordered. The parties shall advance the cost of publication in equal amounts, and such amounts shall be subject to reimbursement from any amounts

turned over. JPM Chase may, at its own expense, undertake any other appropriate measures reasonably calculated to provide notice of the pending turnover of the Blocked Accounts to the Individuals or to serve a copy of the Interpleader Petition and this Stipulation and Order on those Individuals.

2. The notice shall set forth a deadline thirty (30) days after the first date of publication (unless such date falls on a weekend or holiday, in which case the deadline shall be the first business day thereafter) (the “Notice Deadline”). Any such Individuals, or the heirs or assigns of such Individuals, claiming an interest in the Blocked Accounts, must submit an objection to turnover, including evidence supporting a claim to or an interest in one or both of the Blocked Accounts, and the amount or property so-claimed by that person, before the expiration of the Notice Deadline.

3. After the expiration of the Notice Deadline, Petitioners and JPM Chase shall submit a joint statement summarizing the steps taken to serve notice on the Individuals by publication or otherwise, simultaneously submitting copies of any objections received in response to the published notice on or before the expiration of the Notice Deadline, and identifying (a) the amounts claimed, and (b) the amounts not claimed.

4. Any funds or securities held in the Blocked Accounts identified as being unclaimed on or before the expiration of the Notice Deadline (the “Undisputed Amounts”) may be deemed to constitute the property of Banco Nacional de Cuba as the successor in interest to Banco Gelats, and the Court may immediately enter the [Proposed] Order and Judgment Concerning Turnover of Account No. 25 and Account

No. 26 held by JPMorgan Chase Bank, N.A. attached hereto as Exhibit 2 with respect to the Undisputed Amounts (the "Turnover Order").

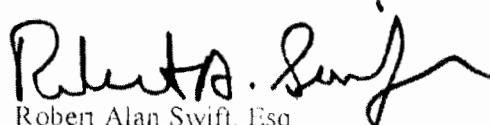
5 If any objections to turnover are received on or before to the expiration of the Notice Deadline which assert a claim to any portion of the funds or securities in the Blocked Accounts (the "Amounts in Dispute"), the Amounts in Dispute shall be excluded from the Turnover Order, and the Court shall hold further proceedings to adjudicate any disputes between Petitioners and the Individuals regarding those claims.

6 This stipulation may be signed in counterparts and by facsimile.

Dated: New York, New York
December 11, 2015

KOHN, SWIFT, & GRAF, P.C.

By



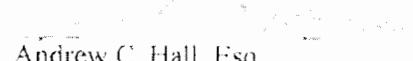
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So-Ordered:

Hon. Alvin K. Hellerstein
United States District Judge

COLSON HICKS EIDSON

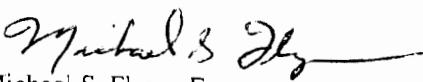
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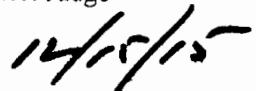
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So Ordered


Hon. Alvin K. Hellerstein
United States District Judge


12/15/15